



2121,15w

P/1872-76

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Roy MILNER

Date: July 14, 2005

Serial No.: 09/824,003

Group Art Unit: 2121

Filed: April 2, 2001

Examiner: K.E. Booker

For : METHOD AND SYSTEM FOR COORDINATION OF CAD DRAWINGS

PROVIDING COLLISION DETECTION BETWEEN DRAWINGS

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUBMISSION OF POWER OF ATTORNEY AND  
CHANGE OF CORRESPONDENCE ADDRESS**

Sir:

In the above-identified application, a Petition to Revive this application was granted on May 9, 2005. However, in the Decision on Petition it was noted that there was no indication that Petitioner herein was ever empowered to prosecute the instant application.

Submitted herewith is a power of attorney to the law firm of Ostrolenk, Faber, Gerb & Soffen from Construction Technology, Inc., the assignee of the above-identified application, as recorded at Reel/Frame 015278/0304 recorded October 21, 2004. A power of attorney had been previously submitted from Richard Levine to Ostrolenk, Faber, Gerb & Soffen. However, a review of the assignment records on file with the Patent Office, copy attached, reveals that the assignment from the trustee in bankruptcy (Sidney K. Swinson) is to Construction Technology, Inc. Mr. Richard W. Levine is the president of Construction Technology, Inc. The assignment, copy attached, including all supporting papers, shows that the

assignee is Construction Technology, Inc. Accordingly, submitted herewith is a new power of attorney from Construction Technology, Inc. to Ostrolenk, Faber, Gerb & Soffen.

Please send all further correspondence to the address indicated in the power of attorney, that is:

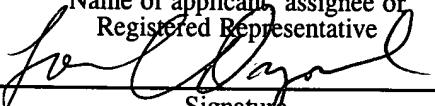
Ostrolenk, Faber, Gerb & Soffen LLP  
1180 Avenue of the Americas  
New York, NY 10036-8403  
telephone 212-382-0700  
fax 212-382-0888  
email [ldujmich@ostrolenk.com](mailto:ldujmich@ostrolenk.com).

In view of the above and the attached submissions, it is submitted that the power of attorney to Ostrolenk, Faber, Gerb & Soffen from Construction Technology, Inc. should now be accepted and all further correspondence should be forwarded to the above-indicated address.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 14, 2005.

Louis C. Dujmich

Name of applicant, assignee or  
Registered Representative

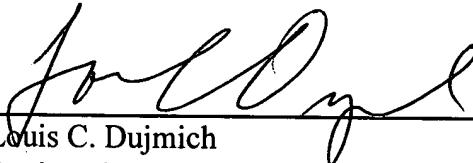
  
Signature

July 14, 2005

Date of Signature

LCD/jh

Respectfully submitted,

  
\_\_\_\_\_  
Louis C. Dujmich  
Registration No.: 30,625  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700



P/1872-76

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

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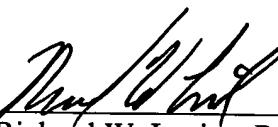
POWER OF ATTORNEY

Sir:

Construction Technology, Inc., assignee of the above-identified application as recorded at Reel/Frame 015278/0304, recorded October 21, 2004, revokes all powers of attorney heretofore given, and appoints OSTROLENK, FABER, GERB & SOFFEN, LLP and the members of the firm: Samuel H. Weiner (Registration No. 18,510); Robert C. Faber (Registration No. 24,322); Max Moskowitz (Registration No. 30,576), James A. Finder (Registration No. 30,173), William O. Gray, III (Registration No. 30,944), Louis C. Dujmich (Registration No. 30,625) and Douglas A. Miro (Registration No. 31,643), all members of the Bar of the State of New York, whose post office address is 1180 Avenue of the Americas, New York, New York 10036-8403, [(212) 382-0700] as attorneys with full power of substitution, association and revocation, to prosecute said application and to transact all business in connection therewith.

Signed at Construction Technology / 400 Columbus Avenue of Manhattan this 11 day of July, 2005

By:

  
Richard W. Levine, President  
Construction Technology, Inc.



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### Patent Assignment Details

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Reel/Frame: 015278/0304

Conveyance: ASSIGNMENT OF ASSIGNEES INTEREST (SEE DOCUMENT FOR DETAILS).

Total properties: 1

1 Patent #: NONE

Issue Dt: 10/21/2004

Publication #: US20020144204

Pub Dt: 10/03/2002

Filing Dt: 04/02/2001

Application #: 09824003

Title: Method and system for coordination of CAD drawings providing collision detection between drawings

#### Assignor

1 SWINSON, SIDNEY K., TRUSTEE - IN THE U.S. BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF OKLAHOMA, RE: MILNER II, ROY MATTHEW & MILNER, SANDRA JEAN

#### Assignee

1 RICHARD LEVINE

400 COLUMBUS AVENUE

C/O CONSTRUCTION TECHNOLOGY INC.

VALHALLA, NEW YORK 10595

#### Correspondence name and address

CTI

RICHARD LEVINE

400 COLUMBUS AVE.

VALHALLA, NY 10595

If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 703-308-9723

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## Method:

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09/824,003 Method and system for coordination of CAD drawings providing collision detection between drawings

Application	Transaction	Image File	Published	Publication	Address &	Address &
Data	History	Wrapper	Documents	Dates	Attorney/Agent	Attorney/Agent

<a href="#">Application Number:</a>	09/824,003	<a href="#">Customer Number:</a>	-	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	
<a href="#">Filing or 371 (c) Date:</a>	04-02-2001	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>		<a href="#">06-02-2005</a>	<a href="#">ELECTRONIC</a>
<a href="#">Application Type:</a>	Utility	<a href="#">Status Date:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>		<a href="#">06-02-2005</a>	
<a href="#">Examiner Name:</a>	HOLMES, MICHAEL B	<a href="#">Location:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>		<a href="#">06-02-2005</a>	
<a href="#">Group Art Unit:</a>	2121	<a href="#">Location Date:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>		<a href="#">06-02-2005</a>	
<a href="#">Confirmation Number:</a>	6465	<a href="#">Earliest Publication No:</a>	US 2002-0144204 A	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	
<a href="#">Attorney Docket Number:</a>	-	<a href="#">Earliest Publication Date:</a>	10-03-2002	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	
<a href="#">Class / Subclass:</a>	707/104.100	<a href="#">Patent Number:</a>	-	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	
<a href="#">First Named Inventor:</a>	Roy Milner , Broken Arrow, OK	<a href="#">Issue Date of Patent:</a>	-	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	
<a href="#">Title of Invention:</a>	Method and system for coordination of CAD drawings providing collision detection between drawings	<a href="#">Status:</a>	-	<a href="#">Status:</a>	<a href="#">Response to Non-FI Entered and Forwar</a>	

Patent Searches | -

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Form PTO-1595 (Rev. 06/04)  
OMB No. 0651-0027 (exp. 6/30/2005)



U.S. DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

**RECORDATION FORM COVER SHEET  
PATENTS ONLY**

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

**1. Name of conveying party(ies)/Execution Date(s):**

Sidney K. Swinson, Trustee - in the U.S. Bankruptcy Court for the Eastern District of Oklahoma, re: Milner II, Roy Matthew & Milner, Sandra Jean; Case No. 02-73057  
Execution Date(s) August 29th, 2003

Additional name(s) of conveying party(ies) attached?  Yes  No

**3. Nature of conveyance:**

<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name
<input type="checkbox"/> Government Interest Assignment	
<input type="checkbox"/> Executive Order 9424, Confirmatory License	
<input type="checkbox"/> Other	

**4. Application or patent number(s):**

This document is being filed together with a new application.

**A. Patent Application No.(s)**

09/824,003

See page 7, item 2.e of "Exhibit A"  
attached (Settlement Agreement on...)

Additional numbers attached?  Yes  No

**5. Name and address to whom correspondence concerning document should be mailed:**

Name: Richard Levine

Internal Address:

Street Address: 400 Columbus Avenue

c/o CTI

City: Valhalla

State: New York Zip: 10595

Phone Number: 914-747-8900

Fax Number: 914-747-8088

Email Address: dickcti@aol.com

**9. Signature:**

Signature

Richard Levine

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents:

Documents to be recorded (including cover sheet) should be faxed to (703) 305-6995, or mailed to:  
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, V.A. 22313-1450

700124883

**PATENT**  
REEL: 015278 FRAME: 0304

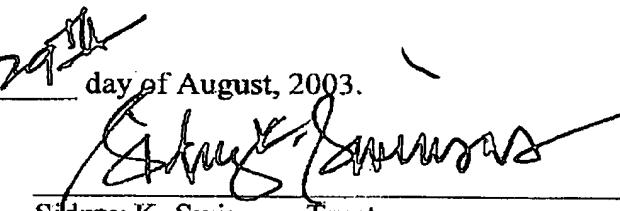
IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

In re: )  
MILNER II, Roy Matthew )  
SS# 440-56-9020 ) Case No. 02-73057  
MILNER, Sandra Jean ) (Chapter 7)  
SS# 442-62-0423 )  
Debtors. )  
\_\_\_\_\_  
)

ASSIGNMENT

For value received, pursuant to the Settlement Agreement between Sidney K. Swinson, trustee, Roy M. Milner II, individually and d/b/a Blue Diamond Technologies, and Sandra Jean Milner, The MilMoore Corporation and Construction Technology, Inc., approved by the United States Bankruptcy Court for the Eastern District of Oklahoma in Case No. 02-73057, *In re Roy Matthew Milner, II and Sandra Jean Milner*, in an Order Approving Settlement With Construction Technology, Inc., entered August 22, 2003, I, Sidney K. Swinson, trustee of the bankruptcy estate of Roy M. Milner II and Sandra Jean Milner, do hereby assign and convey to Construction Technology, Inc., all of the bankruptcy estate's right, title and interest, if any, in any and all of the IntelliCAD Assets (as defined in the Settlement Agreement), including those assets being marketed or sold by Roy M. Milner II--Blue Diamond Technologies and the MilMoore Corporation.

DATED at Tulsa, Oklahoma, this 20 day of August, 2003.

  
\_\_\_\_\_  
Sidney K. Swinson, Trustee  
Gable & Gotwals  
100 W. 5<sup>th</sup> St., Suite 1100  
Tulsa, OK 74103-4217  
918.595.4800; 918.382.2845 (fax)  
sswinson@gablelaw.com

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

In re:

MILNER II, Roy Matthew  
SS# 440-56-9020 ) Case No. 02-73057  
MILNER, Sandra Jean ) (Chapter 7)  
SS# 442-62-0423 )  
Debtors. )

**MOTION TO APPROVE SETTLEMENT  
WITH CONSTRUCTION TECHNOLOGY, INC.**

Sidney K. Swinson, Successor Trustee ("Swinson"), for this Motion to Approve Settlement with Construction Technology, Inc., states as follows:

1. Roy M. Milner, II and Sandra J. Milner (the "Debtors") filed with this Court their Joint Voluntary Petition for Relief under Chapter 7 of the United States Bankruptcy Code on September 3, 2002.
2. This Court has jurisdiction over the parties and subject of this core proceeding pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(A). This Motion is authorized by Rule 9019(a) of the Fed. R. Bank. Pro.
3. On December 16, 2002, Construction Technology, Inc. ("CTI") filed with this Court its Complaint against the Debtors, Roy M. Milner d/b/a Blue Diamond Technologies, The MilMoore Corporation and Joseph Q. Adams, in his capacity as Trustee for the Bankruptcy Estate of the Debtors seeking Declaratory Relief, Permanent Injunction, an Accounting, Indemnity and Denial of Discharge (the "Complaint"). The Complaint involves the bankruptcy estate to the extent CTI requested a determination of the estate's interest in the IntelliCAD Assets.
4. On May 27, 2003, Joseph Q. Adams filed with this Court his Resignation of Trustee and Notice of Appointment of Successor Trustee.

(339438:)

5. Swinson is the duly appointed successor trustee of this bankruptcy estate.

6. Swinson and CTI have reached an agreement, subject to Bankruptcy Court approval, to settle CTI's claims against the bankruptcy estate as pled in the Complaint. The terms of the settlement are reflected in the Settlement Agreement, a copy of which is attached hereto as Exhibit A, which by this reference is incorporated herein. The Settlement Agreement provides that CTI will pay the bankruptcy estate the sum of Five Thousand Dollars and No/100 (\$5,000.00) and withdraw its claim in this Bankruptcy Estate filed on January 21, 2003, in consideration for the transfer pursuant to 11 U.S.C. § 363 by Swinson to CTI free and clear of all liens, claims, encumbrances and other interests, of the Bankruptcy Estate's interest, if any, in any and all of the IntelliCAD Assets, including those assets being marketed or sold by Milner: Blue Diamond Technologies and The MilMoore Corporation.

7. CTI withdraws its unquantified Proof of Claim filed on January 21, 2003 with this Court.

8. Swinson believes the settlement is in the best interests of this bankruptcy estate because it avoids the cost and uncertainty of litigation and will ensure a distribution in this case.

WHEREFORE, Swinson requests, in the absence of an objection or after a hearing on any objection, for an Order approving the settlement with Construction Technology, Inc.

DATED this 18<sup>th</sup> day of July, 2003.



Sidney K. Swinson, OBA #8804

Gable & Gotwals

100 W. 5<sup>th</sup> St., Suite 1100

Tulsa, OK 74103-4217

918.595.4800

918.382.2845 (fax)

sswinson@gablelaw.com (e-mail)

Attorney for Sidney K. Swinson, Trustee

CERTIFICATE OF SERVICE

I do hereby certify that on the 18<sup>th</sup> day of July, a true, correct and exact copy of the above and foregoing document was served by placing same in the United States mail, with proper postage thereon duly prepaid, to those parties as listed below:

Roy Matthew Milner, II  
Sandra Jean Milner  
7425 S. Bushnell Blvd.  
Broken Arrow, OK 74014

Todd M. Henshaw  
Attorney at Law  
320 South Boston, Suite 1130  
Tulsa, Oklahoma 74103-4700

Kenneth G.M. Mather  
Hinshaw & Culbertson  
100 S. Ashley Dr., Ste. 830  
First Union Center  
Tampa, FL 33602

Office of the US Trustee  
224 South Boulder, Suite 225  
Tulsa, Oklahoma 74103

Alfred Fabricant  
1180 Ave. of the Americas  
New York, NY 10036

Bank One  
P. O. Box 94015  
Palatine, IL 60094-4015

Circuit City Stores  
P. O. Box 100045  
Kennesaw, GA 30156-9245

Construction Technology, Inc.  
Plasma Automation, Inc.  
400 Columbus Ave.  
Valhalla, NY 10595

First USA Bank, NA  
P. O. Box 94014  
Palatine, IL 60094-4014

Fleet Credit Card Services  
P. O. Box 1016  
Horsham, PA 19044

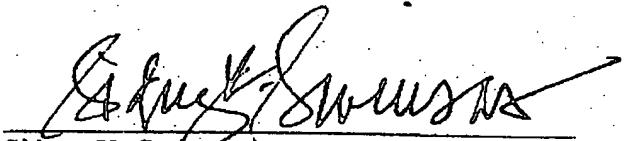
Oklahoma Central C.U.  
11335 E. 41<sup>st</sup> Street  
Tulsa, OK 74146

Sallie Mae Servicing  
P. O. Box 9500  
Wilkes Barre, PA 18773-9500

Oklahoma Tax Commission  
General Counsel Bankruptcy  
P. O. Box 53248  
Oklahoma City, OK 73152-3248

Oklahoma Central Credit Union  
P. O. Box 471228  
Tulsa, OK 74147

Slma Trust  
Sallie Mae Servicing, LP  
220 Lasley Ave.  
Wilkes-Barre, PA 18706

  
\_\_\_\_\_  
Sidney K. Swanson

**SETTLEMENT AGREEMENT ON CONSTRUCTION TECHNOLOGY, INC.'S  
COMPLAINT FOR DECLARATORY RELIEF, PERMANENT INJUNCTION, AN  
ACCOUNTING, INDEMNITY AND DENIAL OF DISCHARGE**

This Settlement Agreement ("Agreement") is entered into between Construction Technology, Inc.; Roy M. Milner, individually and d/b/a Blue Diamond Technologies; Sandra J. Milner; The Milmoore Corporation (collectively, "the Milner Defendants"); and Sidney K. Swinson, successor trustee of the bankruptcy estate of Roy M. Milner II and Sandra J. Milner.

**WITNESSETH:**

WHEREAS, the Debtors filed their Voluntary Chapter 7 Bankruptcy Petition on September 3, 2002. Joseph Q. Adams was appointed as the Interim Trustee. The § 341 First Meeting of Creditors was conducted on October 15, 2002.

WHEREAS, Blue Diamond Technologies ("Blue Diamond") is a sole proprietorship owned and controlled by Roy Matthew Milner, II ("Milner"). Blue Diamond conducts business in the Eastern District of Oklahoma.

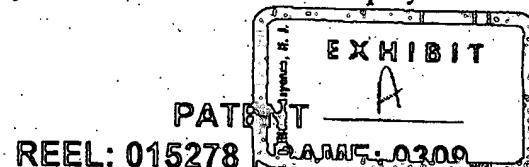
WHEREAS, The MilMoore Corporation conducts business in the Eastern District of Oklahoma. The Debtors own approximately Eighty Percent (80%) of The MilMoore stock.

WHEREAS, Sidney K. Swinson is the Successor Trustee to Joseph Q. Adams, and is the duly appointed and authorized Chapter 7 Trustee for the Milner bankruptcy estate (hereinafter the "Trustee"). The Trustee was named in this case of action solely in his capacity as the Trustee for the Milner bankruptcy estate for declaratory relief only.

WHEREAS, pre-petition, CTI and Plasma Automation, Inc. ("PAI") filed a Complaint against Milner with the United States District Court for the Southern District of New York.

WHEREAS, on December 16, 2002, Construction Technology, Inc. ("CTI") filed with this Court its Complaint against the Debtors, Roy M. Milner d/b/a Blue Diamond Technologies, The MilMoore Corporation and Joseph Q. Adams, in his capacity as Trustee for the Bankruptcy

{341055:}



Estate of the Debtors seeking Declaratory Relief, Permanent Injunction, an Accounting, Indemnity and Denial of Discharge (the "Complaint"). The Complaint involves the bankruptcy estate to the extent CTI requested a determination of the estate's interest in the IntelliCAD Assets.

WHEREAS, Milner executed an Employment and Confidential Information Agreement ("Employment Agreement") with CTI, and IntelliCAD Computers, LLC (successor to IntelliCAD Computers, Inc.) on March 3, 1998. IntelliCAD Computers, LLC was acquired by CTI, which granted PAI a license to market IntelliCAD. CTI is IntelliCAD's successor in interest, subject to the license agreement with PAI. The Employment Agreement was entered into as part of an overall settlement agreement of a patent infringement lawsuit brought by CTI against IntelliCAD. Under the terms of the Employment Agreement, IntelliCAD Computers, LLC transferred to CTI certain intellectual and proprietary property rights and proprietary assets defined in the settlement agreement as the IntelliCAD Intellectual and Proprietary Assets, which, in part, consisted of certain computer programs, including CAD programs which had been developed for IntelliCAD Computers, LLC.

WHEREAS, the Employment Agreement identified Milner as an integral part of IntelliCAD and that he would continue as an employee of IntelliCAD, now managed by PAI under license by CTI, developing computer programs, improvements, enhancements and updates for previously developed IntelliCAD computer programs.

WHEREAS, under paragraph 2.4 of the Employment Agreement, "Milner acknowledges that IntelliCAD has conveyed all right, title and interest in and to the IntelliCAD intellectual and proprietary assets to CTI and that CTI is the sole owner of said assets. Milner further acknowledges that IntelliCAD is remaining in the business of developing and selling CAD systems by virtue of the license agreements between CTI and IntelliCAD pursuant to the

settlement agreement and that without said license agreements, InteliCAD cannot remain in the business of developing and selling CAD systems."

WHEREAS, Milner expressly represented in the Employment Agreement that "Milner makes no claim to any aspect of the intellectual and proprietary assets and agrees that he will make no claims to any future developments, improvements, enhancements and upgrades to the InteliCAD system and to the InteliCAD intellectual and proprietary assets."

WHEREAS, Milner was to continue as an employee of CTI, InteliCAD or PAI for a period of four (4) years after the execution of the Employment Agreement.

WHEREAS, paragraph 3.2 of the Employment Agreement provides that "Milner agrees that he will keep all information concerning the InteliCAD intellectual and proprietary assets and all existing and future inventions, improvements, enhancements, upgrades and further developments thereto in strict confidence and not publish or disseminate any such information except with the prior written consent of an authorized representative of CTI. "Additionally, paragraph 3.2 provided that "Milner agrees to make no use of any such information except such use as required for performance of his duties for InteliCAD."

WHEREAS, additionally, paragraph 3.5 of the Employment Agreement provided that "Milner agrees to disclose and assign promptly to InteliCAD, for the benefit of CTI, and does hereby assign his entire right, title and interest in and to all inventions made or conceived by him on behalf of InteliCAD whether made solely by him or jointly with others, from time entering into InteliCAD's employee until he leaves, which are related to the business, work or area of research of InteliCAD or companies which InteliCAD owns or which result from or are suggested by any work he may do on behalf of InteliCAD. Milner agrees that his obligation

shall also relate to any inventions made by him for InteliCAD during his prior employment by InteliCAD before entering into this Agreement."

WHEREAS, the Employment Agreement specified that any of Milner's work product during the course of his employment with InteliCAD, which was through May 7, 2002, belongs to CTI. Paragraph 3.6 states in part "... Milner agrees that any works of authorship made pursuant to his employment by InteliCAD are made as a work made for hire. Milner further agrees to execute all documents and do all acts necessary to vest in InteliCAD, for the benefit of CTI, all rights, including copyrights in such works of authorship."

WHEREAS, Milner's work on the metric conversion program, as it existed as of the effective date of the Employment Agreement, for MilMoore Corporation was specifically excluded from the broad assignment of rights by Milner to CTI in Employment Agreement paragraph 3.5 because it was not a CAD related program. However, any and all developments made by Milner after the Employment Agreement, whether for MilMoore, Blue Diamond Technologies or anyone else, during the course of his employment at InteliCAD, became vested in InteliCAD for the benefit of CTI pursuant to Employment Agreement paragraph 3.6.

WHEREAS, in the event of Milner's employment termination by InteliCAD, the Employment Agreement provided that "Milner agrees to deliver to InteliCAD, for the benefit of CTI, all materials and all programs created for InteliCAD...which are in his possession, all of which materials and other things shall be and remain the sole property of CTI."

WHEREAS, the Employment Agreement contains a non-competition provision at paragraph 3.8 which states that if Milner's employment is terminated for any reason then,

- a. "that for a period of three (3) years after termination of his employment:
  - i. he will not compete with InteliCAD, CTI or CTI's licensees by providing competing CAD or

construction industry software development services to others directly, as a consultant, or as an employee by selling CAD systems in competition with the systems sold by IntelliCAD; and

ii. he will not solicit customers of IntelliCAD."

WHEREAS, it is further provided in paragraph 3.10 of the Employment Agreement that Milner "...will not use the IntelliCAD intellectual and proprietary assets and any other IntelliCAD proprietary and confidential information including all further developments, enhancements, improvements and upgrades to the IntelliCAD system for any purpose except for the benefit of IntelliCAD and CTI, both during the term of this Agreement and after termination of this Agreement. Milner agrees he will not use any IntelliCAD confidential or proprietary information to benefit himself personally to the detriment of IntelliCAD or CTI or to benefit any third party during the term of this Agreement and after termination of this Agreement."

WHEREAS, CTI alleged that Milner's employment was terminated for cause on or around May 7, 2002, due to a material breach of the Employment Agreement. CTI also alleged that Milner materially breached the confidentiality and non-competition provisions of the Employment Agreement after his termination by:

- a. failing to turn over all materials and programs which make up the IntelliCAD assets;
- b. using the IntelliCAD assets for his own personal benefit;
- c. directly competing, or attempting to compete with CTI and IntelliCAD;
- d. actively soliciting customers of IntelliCAD including specifically asking customers of IntelliCAD to contribute to a "defense fund" to raise money for his anticipated legal costs; and
- e. directly offering to IntelliCAD users' systems support at the same price charged by IntelliCAD in direct competition with IntelliCAD.

**WHEREAS**, CTI alleged that Milner failed or refused to surrender to CTI all of the IntelliCAD assets, including but not limited to:

- a. the Windows version of HVAC CAD;
- b. the Piping CAD Program Addition;
- c. the improved collision program being marketed and sold by Milner under the name "Blue Diamond Technologies;"
- d. Milner's patent application rights as submitted under his name in 2001.

**WHEREAS**, the Debtors own Eighty Percent (80%) of the stock of The MilMoore Corporation. The MilMoore Corporation is an operating business and can be found at the web address of <http://www.oknet.com/geometry>. The address for purchasing products is the Debtors' personal address. CTI alleged that the products advertised for sale by The MilMoore Corporation are CAD related and, to that extent, constitute property of CTI.

**WHEREAS**, CTI had also alleged that the products being marketed or sold by Blue Diamond Technologies are CAD related or otherwise covered by the Milner Employment Agreement and are therefore CTI property.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. The Trustee shall file a Motion to Approve Settlement pursuant to Rule 9019, Fed. R. Bank. P. and upon the entry of a Final Order granting the Motion, the parties shall be bound to the terms of this Agreement.
2. The Defendants consent to the entry of an Order in the Adversary Proceeding determining that CTI owns all of the IntelliCAD intellectual and proprietary property rights and assets, including but not limited to:

- a. the Windows version of HVAC CAD;

- b. the Piping CAD Program Addition;
- c. the improved collision program being marketed and sold by Milner under the name "Blue Diamond Technologies;"
- d. the CAD related products claimed to be owned or otherwise marketed by The MilMoore Corporation;
- e. Milner's patent application rights as submitted by him under his name in 2001; and
- f. *all other developments, improvements, enhancements and upgrades to the IntelliCAD system which may have been made by Milner prior to his employment termination on May 7, 2002. (the IntelliCAD Assets)*

3. CTI will pay the Trustee for the benefit of the Estate the sum of Five Thousand Dollars and No/100 (\$5,000.00) in consideration for all of the Estate's interest, if any, in any and all of the IntelliCAD Assets, including those assets being marketed or sold by Milner, Blue Diamond Technologies and The MilMoore Corporation to CTI, pursuant to 11 U.S.C. § 363, free and clear of all liens, claims, encumbrances and other interests.

4. The Milner Defendants affirmatively represent and state under penalty of perjury that they are not in possession of any IntelliCAD or IntelliCAD related business CAD Assets identified in Paragraph 23 herein other than what will be surrendered to the Trustee for transfer to CTI. They further affirmatively represent and state under penalty of perjury that no IntelliCAD or IntelliCAD related business CAD Assets, as identified in Paragraph 1 herein, were sold by them. Milner's patent application referred to in Paragraph 1 shall be assigned to CTI. Milner agrees that his employment with CTI terminated on May 7, 2002, for all purposes under the Employment Agreement.

5. By virtue of the sale of the IntelliCAD Assets to CTI herein, and the declaration of ownership of the IntelliCAD Assets in favor of CTI, the Milner Defendants agree that for all purposes all right, title and interest in and to the IntelliCAD Assets are vested in CTI. This

Agreement and the Order approving the Compromise shall be binding and enforceable by injunctive relief as to Milner Defendants, their heirs, successors, assigns or employers.

6. The Debtors' discharge will be entered immediately after the Order approving the Compromise becomes a Final Order.

7. The Bankruptcy Court shall retain jurisdiction to hear and determine any disputes which might arise between Plaintiff and the Defendants and their heirs, successors, assigns or employers under this Agreement and the Order approving the Compromise.

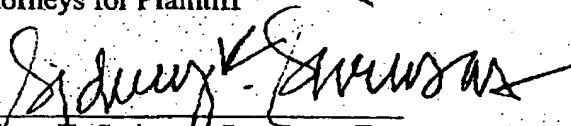
8. In the event that it is determined that the Milner Defendants have, or continue to be in possession or control of any of the Assets identified in Paragraph 1 herein, or if any Milner Defendant has sold or otherwise transferred in any form or fashion any of the Assets in Paragraph 1, or if any Defendant has made any representation of fact that is false or misleading with respect to any of the matters contained in this Agreement, the Motion to Approve Settlement, or the Order, then it is agreed that the same shall be just and sufficient cause to reopen this bankruptcy proceeding and to except or deny the Debtors' discharge pursuant to 11 U.S.C. §§ 523 or 727.

9. This Agreement and the Order approving the Compromise shall constitute an ongoing and continuing restraint against the Milner Defendants from using, marketing, selling, transferring or otherwise profiting from any IntelliCAD or IntelliCAD related business CAD Asset as identified in Paragraph 1 herein, in any way. It is understood and agreed that any violation of this restraint shall constitute a violation of this Agreement and the Order approving the Compromise.

10. Upon final approval of this Agreement by the Bankruptcy Court, CTI shall waive its claim against the Milner Bankruptcy Estate.

Approved:

**Kenneth G.M. Mather, Esquire**  
Hinshaw & Culbertson, P.A.  
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Tampa, Florida 33602  
Attorneys for Plaintiff

  
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Gable & Gotwals  
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100 W. Fifth St.  
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**Todd Maxwell Henshaw**  
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Attorney for the Debtors, Blue Diamond Technologies  
and The MilMoore Corporation

**Roy Milner, II**

**Sandra J. Milner**

**Blue Diamond Technologies**

**The MilMoore Corporation**

By \_\_\_\_\_

Its \_\_\_\_\_

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 08/25/03 12:55 WHALE HNU GULWEL



IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE EASTERN DISTRICT OF OKLAHOMA

In re: TRADEMARK OFFICE  
 )  
 MILNER II, Roy Mathew )  
 SS# 440-56-9020 )  
 )  
 MILNER, Sandra Jean )  
 SS# 442-62-0423 )  
 )  
 Debtors. )  
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FILED  
 Case No. 02-73653 0'clock & min AM

(Chapter 7) AUG 22 2003 *Off*

THERESE BUTHOD, CLERK  
 United States Bankruptcy Court  
 Eastern District of Oklahoma

ORDER APPROVING SETTLEMENT  
 WITH CONSTRUCTION TECHNOLOGY, INC.

There came on for consideration before the Honorable Tom R. Cornish, United States Bankruptcy Judge, the Motion of Sidney K. Swinson, Successor Trustee ("Swinson"), to Approve Settlement with Construction Technology, Inc. ("CTI") ("the Motion"). In the absence of an objection to the Motion, the Court finds and concludes:

1. This Court has jurisdiction over the parties and subject of this core proceeding pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(A).
2. The Motion and corresponding Notice of Motion were properly served on July 18, 2003, upon the debtors, their attorney, all creditors, and counsel for CTI, as reflected by the Certificates of Service incorporated therein. No objection to the Motion has been filed and the deadline for doing so has expired.
3. The proposed settlement as described in the Motion and in the Settlement Agreement attached thereto is in the best interests of this bankruptcy estate and is approved.
4. The Motion is granted.
5. In consideration for the payment by CTI of \$5,000.00 to the bankruptcy estate and the withdrawal of its proof of claim filed on January 21, 2003, Swinson shall convey to CTI free and clear of all liens, claims, encumbrances and other interests, the bankruptcy estate's interest, (341744;)

if any, in any and all of the IntelliCAD Assets, including those assets being marketed or sold by Roy M. Milner II—Blue Diamond Technologies and the MilMoore Corporation.

IT IS THEREFORE ORDERED that the settlement as described in the Motion and in the Settlement Agreement be and is hereby approved.

DATED this 21<sup>st</sup> day of August, 2003.

  
Tom R. Comish  
United States Bankruptcy Judge

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Attorney for Sidney K. Swinson, Trustee

MOVANT TO NOTIFY